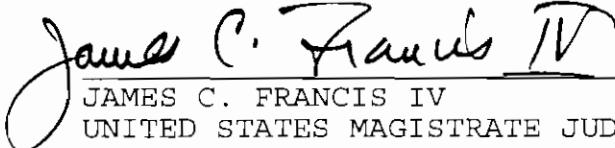


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RICHARD MICHAEL SELLERS, : 07 Civ. 7000 (SHS) (JCF)  
:   
Plaintiff, :   
: REPORT AND  
: RECOMMENDATION  
- against - :   
:   
C.O. BRIAN COSTELLO #335, :   
:   
Defendant. :   
-----  
TO THE HONORABLE SIDNEY H. STEIN, U.S.D.J.:

The complaint in this action was filed on August 6, 2007, and service on the defendant was never effected. By Order dated December 11, 2007, I extended plaintiff's time to effect service to January 31, 2008, but there is no indication in the docket that the complaint was ever served. I therefore recommend that the complaint be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Pursuant to 28 U.S.C. § 636(b)(1) and Rules 72, 6(a), and 6(e) of the Federal Rules of Civil Procedure, the parties shall have ten (10) days to file written objections to this Report and Recommendation. Such objections shall be filed with the Clerk of the Court, with extra copies delivered to the chambers of the Honorable Sidney H. Stein, Room 1010, and to the chambers of the undersigned, Room 1960, 500 Pearl Street, New York, New York 10007. Failure to file timely objections will preclude appellate review.

Respectfully submitted,

  
JAMES C. FRANCIS IV  
UNITED STATES MAGISTRATE JUDGE

Copies mailed this date to:

Richard Michael Sellers  
07-A-4202  
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